

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

EPA Region 5 Records Ctr.



275794

THE DOW CHEMICAL CO., et al.,

Plaintiffs,

v.

ACME WRECKING CO., INC., et al.,

Defendants.

Civil Action Nos.
C-1-97-0307; C-1-97-0308
(Consolidated Actions)

C-1-01-439
(Transferred Action)

THE DOW CHEMICAL CO., et al.

Plaintiffs,

v.

SUN OIL COMPANY, d/b/a SUNOCO
OIL CORP., et al.,

Defendants.

Judge Weber

UNITED STATES OF AMERICA,

Plaintiff,

v.

AERONCA, INC., et al.

Defendants.

**UNITED STATES' THIRD REQUEST FOR PRODUCTION OF DOCUMENTS
AND SECOND REQUEST FOR ADMISSIONS
TO CLARKE SERVICES, INC., RICHARD M. CLARKE, AND CLARKE, INC.**

Pursuant to Rules 26, 34, and 36 of the Federal Rules of Civil Procedure, Plaintiff, the
United States of America, requests that Defendants Clarke Services, Inc., Richard M. Clarke, and

Clarke, Inc. (the "Dick Clarke Entities"): (1) admit or answer the following requests for admission within forty-five days, as provided for in the First Case Management Order ("First CMO") entered in the above-captioned action; and (2) produce the documents requested below, or in lieu thereof serve authentic copies of such documents on the undersigned counsel for the United States within forty-five days, as provided for in the First CMO.

INSTRUCTIONS

A. As to the Document Requests, the United States incorporates by reference the instructions set forth in the United States' First Set of Interrogatories and First Request for Production of Documents to Clarke Services, Inc.

B. As to the Requests for Admissions, the United States incorporates by reference the instructions set forth in the United States' First Request for Admissions, Second Set of Interrogatories and Second Request for Production of Documents to Clarke Services, Inc.

C. In the definition of "Clarke Entities":

1. The plural of any word shall include the singular and the singular shall include the plural;
2. The possessive of any word shall include the non-possessive and the non-possessive of any word shall include the possessive;
3. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the definition inclusive rather than exclusive; and
4. A sole proprietorship (which does not include the words "Co." or "Inc.") shall include a corporation and a corporation shall include a sole proprietorship(s).

D. General. It is the intent of instruction No. C.4 to ensure production of documents relating to any possible predecessors or successors to the businesses that were and are located at 2040 E. Kemper Rd, Sharonville, Ohio; 9740 Cincinnati-Dayton Road, West Chester, Ohio; and 9300 Cincinnati-Dayton Road, West Chester, Ohio.

E. Relevant Time Frame. With the exception of Document Request Nos. 16 and 17, the relevant time frame is any documents created or dated between January 1955, and December 31, 1991.

F. Privilege as Applied to Document Production. If objection is made to producing any document, or any portion thereof, or to disclosing any information contained therein, in response to any production request on the basis of any claim of privilege, respondent is requested to specify in writing the nature of such information and documents, and the nature of the privilege claimed, so that the Court may rule on the propriety of the objection. In the case of documents, respondent should state:

1. the title of the document;
2. the nature of the document (e.g., interoffice memorandum, correspondence, report);
3. the author or sender;
4. the addressee;
5. the date of the document;
6. the name of each person to whom the original or a copy was shown or circulated;
7. the names appearing of any circulation list relating to the document;
8. the basis on which privilege is claimed; and
9. a summary statement of the subject matter of the document in sufficient detail to permit the court to rule on the propriety of the objection.

G. In the Document Requests:

1. The plural of any word shall include the singular and the singular shall include the plural;
2. The possessive of any word shall include the non-possessive and the non-possessive of any word shall include the possessive; and
3. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the definition inclusive rather than exclusive.

DEFINITIONS

A. The United States incorporates by reference the definitions set forth in the United States' First Set of Interrogatories and First Request for Production of Documents to Clarke Services, Inc., Richard M. Clarke, and Clarke, Inc.

B. The "Clarke Entities" shall mean:

Thomas J. Clarke, Sr.
 Clarke's Complete Collection and Combustion
 Clarke's Complete Collection
 Clarke's Complete Collection and Incineration
 Clarke Sanitary Landfill
 Clarke Sanitary Fill
 Clarke's Incinerator's, Inc.
 Clarke's Services, Inc.
 Richard M. Clarke
 Martin E. Clarke
 Dick Clarke Co.
 Clarke Container
 All Star Container
 Dick Clarke Trash Removal
 Dick Clarke Trash Removal and Demolition
 Clarke, Inc.
 Clarke Family Trust

Clarke Children's Trust

Any other trust in which Thomas Clarke Sr., Richard M. Clarke, or Martin E. Clarke were either trustees or beneficiaries

DOCUMENT REQUESTS

- (1) All documents relating to the corporate proceedings of any of the Clarke Entities.
- (2) All documents relating to the creation and formation of any of the Clarke Entities.
- (3) All documents relating to the ownership of any of the Clarke Entities, including all documents relating to any changes of the ownership and the reasons for any such changes.
- (4) All documents relating to the identities and functions of the officers and directors of any of the Clarke Entities, including all documents relating to any changes in the identities of the officers and directors and the reasons for such change.
- (5) All documents relating to the business purpose(s) of any of the Clarke Entities, including all documents relating to any changes in such purpose.
- (6) All documents identifying the employees of any of the Clarke Entities (a list of such employees would be a suitable substitute), including all documents relating to the dates of employment and the reasons for any changes in employment status.
- (7) All documents identifying the assets of any of the Clarke Entities, including all documents relating to changes in the assets.
- (8) All documents identifying the liabilities of any of the Clarke Entities, including all documents relating to changes in the liabilities.

- (9) All tax returns of the Clarke Entities.
- (10) All financial returns of the Clarke Entities.
- (11) All records relating to any transactions between the Clarke Entities and any financial institution.
- (12) All Trust Agreements relating to the Clarke Entities.
- (13) All documents relating to the transaction in which the Clarke company or companies that operated out of 2040 East Kemper Road in the 1970s was split up into, at a minimum, a company owned and/or operated by Richard M. Clarke on Cincinnati-Dayton Road and another company that remained at 2040 East Kemper Road. This "split up" occurred in the late 1970s or early 1980's. This transaction is sometimes referred to as one in which Richard M. Clarke bought his father's company.
- (14) All documents relating to the sale of any of the Clarke Entities to BFI of Ohio.
- (15) All documents relating to the sale of any of the Clarke Entities to Mid-American Waste Systems.
- (16) The records of the corporate proceedings of Clarke, Inc. from the time of its incorporation to the present.
- (17) All documents that refer or relate to the existence of Clarke's Services, Inc. at any time after dissolution papers for that corporation were filed to the present.

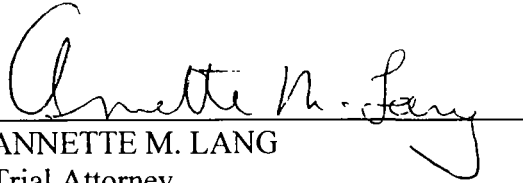
- (18) The complaint and answers in all actions filed by or against any of the Clarke Entities.
- (19) All documents relating to any transfers among any of the Clarke Entities of any liabilities or assets.
- (20) All documents identifying the customers of any of the Clarke Entities and the timeframes when the customers were served by any of the Clarke Entities, including documents that identify any reasons for the acquisition or loss of any customers.
- (21) Copies of all stock certificates of any of the Clarke Entities.
- (22) Documents identifying any lawyers who represented any of the Clarke Entities, the identity of which of the Clarke Entities that the lawyer(s) represented, and the timeframe(s) of the representation.

REQUESTS FOR ADMISSIONS

1. Admit that all documents produced in response to this Third Request for Production of Documents and Second Request for Admissions are authentic.

Respectfully submitted,

W. Benjamin Fisherow
Deputy Section Chief
Environmental Enforcement Section
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U.S. Department of Justice



ANNETTE M. LANG

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CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of August, 2002, I caused a true copy of the foregoing **UNITED STATES' THIRD REQUEST FOR PRODUCTION OF DOCUMENTS AND SECOND REQUEST FOR ADMISSIONS TO CLARKE SERVICES, INC., RICHARD M. CLARKE, AND CLARKE, INC.** to be served by first-class mail, postage prepaid upon the following counsel of record:

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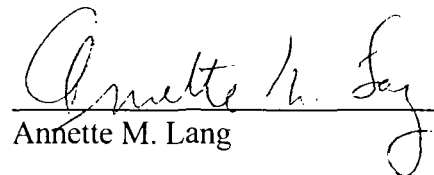
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